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In the Supreme Court of the United States

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL., PETITIONERS

v.

INTERNATIONAL REFUGEE ASSISTANCE PROJECT, ET AL.

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL., PETITIONERS

v.

STATE OF HAWAII, ET AL.

On Writs of Certiorari to the United States Courts of Appeals for the Fourth and Ninth Circuits

BRIEF OF *AMICI CURIAE* PARS EQUALITY CENTER, IRANIAN AMERICAN BAR ASSOCIATION, NATIONAL IRANIAN AMERICAN COUNCIL, AND PUBLIC AFFAIRS ALLIANCE OF IRANIAN AMERICANS, INC. IN SUPPORT OF RESPONDENTS

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INTEREST OF *AMICI CURIAE*[1]

Identity of *Amici Curiae*

Pars Equality Center (Pars) is a nonprofit organization dedicated to helping all members of the Iranian-American community to realize their full potential as informed, self-reliant, and responsible members of American society. Pars believes that learning and teaching the rights and responsibilities of citizenship in a democracy, as well as the rules and rewards of entrepreneurship, are necessary ingredients for success, and the organization achieves its mission primarily by providing extensive social and legal services. Pars's Persian-speaking staff advocates for families and individuals in need, with a strong focus on refugees, asylees, and those newcomers to the United States living in poverty.

The Iranian American Bar Association (IABA) is an independent, apolitical 501(c)(6) nonprofit professional association of attorneys, judges, and law students. It seeks to educate the Iranian-American community in the United States about legal issues of interest, advance the legal rights of the community, and ensure that government officials and the public at large are fully and accurately informed on legal matters of concern to the Iranian-American community. IABA also seeks to foster and promote the achievements of Iranian-American lawyers and other legal professionals. IABA has over 1500 members, and chapters in the District of Columbia, Dallas, Los

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[1] No counsel for a party authored this brief in whole or in part. No one other than *amici curiae*, their members, or *amici*'s counsel made a monetary contribution intended to fund the preparation or submission of this brief. The parties have consented to the filing of this brief, and copies of the letters of consent are on file with the Clerk's Office.

Angeles, New York, Northern California, Orange County, Phoenix, and San Diego.

The National Iranian American Council (NIAC) is a nonpartisan, nonprofit 501(c)(3) organization based in Washington, D.C. NIAC also has a sister organization, NIAC Action, which operates under 26 U.S.C. § 501(c)(4). NIAC seeks to strengthen the voice of Iranian Americans by promoting greater understanding between the Iranian and American people, and seeks to advance the interests of the Iranian-American community on civic, cultural, and political issues. NIAC defends Iranian-American interests against corporate and media bias, discrimination, and government neglect, and monitors and shapes national legislation affecting Iranian Americans. NIAC's constituents number in the tens of thousands, comprised mostly of those of Iranian heritage.

Public Affairs Alliance of Iranian Americans, Inc. (PAAIA) is a nonprofit, nonpartisan organization based in Washington, D.C., that includes 501(c)(3) and (c)(4) components. PAAIA, Inc. is a 501(c)(4) bipartisan, non-sectarian, national membership organization with an affiliated 501(c)(3) organization, IA-100, Inc. PAAIA serves the interests of Iranian Americans and represents the Iranian-American community before U.S. policymakers and the American public at large. PAAIA works to foster greater understanding between the people of Iran and the United States, expand opportunities for the active participation of Iranian Americans in the democratic process at all levels of government and in the public debate, and provide opportunities for advancement for the next generation of Iranian Americans.

Interest of *Amici Curiae*

The discrimination and animus underlying the travel ban and the Trump Administration's policy of discriminatory exclusion has continued to demean and stigmatize minority communities, in particular, the Iranian-American community. Of the seven countries specified in the January 27 Executive Order, Iran had the largest total number of entrants (310,182) between 2006 and 2015. And of the estimated 90,000 visas issued in 2015 to nationals of those seven countries, nearly half were to citizens of Iran. Iranians also represent a substantial proportion of the political and religious refugees who are resettled in the United States each year.

Amici curiae are the four largest Iranian-American organizations in the United States. The United States has a long history of welcoming Iranians who, like so many others from around the world, hope to share in the promise and opportunity that this nation embodies. Many, as political dissidents or members of religious communities, seek shelter in the United States. Many others come here on student, work, and other visas, or as permanent residents through ordinary channels. For decades, this country has made a commitment to Iranian immigrants and their families to allow them to live free from fear and political repression and allow them to contribute to American society.

The travel ban has shaken this community to its very core. Countless families have been traumatically split by forced separation. Life plans have been disrupted. Many individuals have abandoned educational and professional plans. Immediately upon the signing of the January 27 Executive Order, and continuing over the last nine months, *amici* have devot-

ed thousands of hours and a significant proportion of their resources to respond to the effects of the travel ban on the Iranian-American community.

Amici therefore have a real and pressing interest in the outcome of this case. *Amici* agree with respondents that they have shown a likelihood of success on their claims that §§ 2(c), 6(a), and 6(b) of the March 6 Executive Order violate the Establishment Clause and the nondiscrimination provisions of the Immigration and Nationality Act. Indeed, on February 8, 2017, *amici*—together with 19 individual plaintiffs—filed suit in the U.S. District Court for the District of Columbia, asserting constitutional and statutory challenges to the travel ban and seeking a preliminary injunction against the ban's enforcement. *See* Complaint, *Pars Equality Center v. Trump*, No. 17 Civ. 255 (D.D.C. Feb. 8, 2017). *Amici* subsequently amended their complaint and sought preliminary relief against the March 6 order.

Like the cases currently before this Court, *amici*'s complaint raises claims under the Establishment Clause, but also alleges violations of the Equal Protection Clause (discrimination on the basis of national origin and religion), the Due Process Clause, and the Administrative Procedure Act. The case proceeded to an evidentiary hearing, focusing on standing and irreparable harm. On June 20, 2017, the district court stayed the *Pars Equality Center* case pending resolution of the proceedings before this Court. This Court's decision in the *IRAP* and *Hawaii* cases will likely affect the course of *amici*'s case.

Accordingly, *amici* urge this Court to affirm the injunctions against the enforcement of the travel ban.

INTRODUCTION AND SUMMARY OF ARGUMENT

This time last year, Jane Doe #1 was in the thick of wedding planning. She and her fiancé had met three years earlier in San Diego, when he was visiting the United States on a tourist visa. Two years later, they were engaged. They immediately applied for a K-1 fiancé visa, so that Jane Doe #1's fiancé could move to the United States. After an interview, the application was adjudicated and approved, and while the visa was processing, the couple set about planning their wedding celebrations. They selected a venue, placed a large deposit, and began drawing up a guest list. The young couple was looking forward to spending their lives together.

All this changed in an instant on January 27, 2017, when President Trump signed Executive Order No. 13,769, officially titled "Protecting the Nation from Foreign Terrorist Entry into the United States," but which the President calls the "travel ban." After federal courts enjoined the January 27 Executive Order, the President rescinded and replaced it with a materially similar order on March 6. Among other things, the current travel ban bars entry of all nationals from six majority-Muslim countries to the United States, including Iran, and it temporarily suspends the U.S. Refugee Admissions Program (USRAP).

Jane Doe #1's fiancé is an Iranian citizen. Nineteen months since he and Jane Doe #1 first submitted the visa application, and nearly a year since his visa interview, his visa remains pending. The government has not provided the couple any guidance or information about whether and when the visa will be issued so that Jane Doe #1 and her fiancé can get

married in the United States. The couple have been forced to postpone their wedding indefinitely.

Jane Doe #1 and her fiancé are just two of tens of thousands of people whose lives the travel ban suddenly upended. Even after the initial chaos in the wake of the January 27 order subsided, countless Iranian Americans and their families—as well as nationals and immigrants from the other countries subject to the travel ban—have been left adrift. Many of these individuals originally sought to come to the United States in the hope of sharing in the promise and opportunity that this country embodies. For them, the travel ban stands as a stunning and painful betrayal.

In the meantime, litigation regarding the constitutionality of the travel ban has proceeded through the courts. Multiple federal courts rightly enjoined the January 27 and March 6 orders on constitutional and statutory grounds.

The government now seeks to vacate the injunctions. Among other things, the government contends that respondents' challenges to the travel ban are not justiciable, on the misguided theory that respondents have not suffered cognizable injuries sufficient to establish Article III standing. As respondents have amply explained in their briefs, IRAP Br. 16-25; Hawaii Br. 21-26, that is simply wrong as legal matter. Moreover, in addition to the individual respondents, the organizational respondents have standing as they have suffered injury-in-fact in their own right: the travel ban has impeded their pursuit of their organizational missions, and has forced them to divert resources away from their regular activities. Nor is there any merit to the government's argument that the President's decision to issue the travel ban is

immune from judicial review. As this Court has held, the President does not have unfettered or unreviewable discretion to discriminate on the basis of national origin or religion in carrying out national immigration policy. There should be no question that the respondents' challenges are justiciable.

But more broadly, the government's argument trivializes the real, lasting, and irreparable injuries that the travel ban has visited on an entire community—for nothing more than invidious discrimination that President Trump and his advisors have scarcely bothered and utterly failed to conceal. The travel ban effectively tars every Iranian citizen, Muslim or non-Muslim, religious or secular, infant or adult, as a proponent of "radical Islam" and an incipient terrorist. This baseless stereotyping has placed educational and career plans on hold, separated families, and disrupted (and even imperiled) countless lives.

The individual stories in this brief, as well as the experiences of *amici*, bring to life the real and extraordinary harm that the travel ban and the continuing policy of discriminatory exclusion have inflicted on many thousands of families. There is little doubt that the travel ban will stand as one of the most disgraceful episodes in our nation's history. This Court should affirm the injunctions against its enforcement.

ARGUMENT

I. Respondents' Claims Are Justiciable

A. The government seeks to preclude review of the respondents' constitutional claims for lack of standing, even as it acknowledges the "importance of the legal issues implicated by respondents' challenges to the Order." U.S. Br. 35. In so doing, the government disregards the very real injuries that the

travel ban has caused, both on individuals whose lives were interrupted and placed on hold, and on organizations that have diverted resources to combat the travel ban. *See infra* Part II. The respondents in this case are no exception. Respondents have shown ample injury-in-fact to establish Article III standing, and this Court should review their claims on the merits.

The government contends that the respondents' Establishment Clause claims are not justiciable, on the theory that none of the respondents in *IRAP* or *Hawaii* suffered a cognizable violation of their own constitutional rights. U.S. Br. 27-35. But the courts below correctly held that Doe #1 in *IRAP* and Dr. Elshikh in *Hawaii* had standing to challenge Section 2(c) because the March 6 Executive Order had prevented their family members from entering the United States.[2] As the courts below put it, individuals like Doe #1 and Dr. Elshikh have suffered "the direct, painful effects of the Second Executive Order—both its alleged message of religious condemnation and the prolonged separation it causes" between them and their family members "in [their] everyday li[ves]." J.A. 202; *see* J.A. 1180-82. And similarly situated litigants in other cases challenging the travel ban remain aggrieved today. Of the individual plaintiffs in the *Pars* litigation, for example, lawful permanent residents and U.S. citizens remain separated from fiancés and family members, and refugees fleeing persecution because of their political or religious beliefs or sexual orientation have been denied reset-

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[2] Although his Doe #1's wife has now received her visa, his condemnation claim is not moot, and there are other plaintiffs in the case who are similarly situated. IRAP Br. 21-22.

tlement. These injuries are more than sufficient to satisfy constitutional standing requirements.

But even beyond the real, cognizable injuries that individual respondents have suffered, the harms the travel ban has inflicted on organizational respondents provide an alternative and independent basis for Article III standing.[3] This Court has held that an organization has standing in its own right if it "has such a personal stake in the outcome of the controversy as to warrant invocation of federal court jurisdiction." *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 378 (1982) (quoting *Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 261 (1977)).

In *Havens*, this Court held that the plaintiff organization, whose mission was to "assist equal access to housing through counseling and other referral services," *id.* at 379, had standing to bring a challenge under the Fair Housing Act to Havens Realty's practice of steering people toward or away from certain apartment complexes based on their race. The organization asserted that the defendant's practices had "frustrated" its mission, because the organization "had to devote significant resources to identify and counteract the [defendants'] racially discriminatory steering practices." *Id.* This Court held that such statements were sufficient to establish Article III standing. "Such concrete and demonstrable injury to the organization's activities—with the consequent drain on the organization's resources—constitutes far more than simply a setback to the or-

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[3] Because the courts below found that Doe #1 and Dr. Elshikh had standing, they did not decide whether other individuals or organizations had suffered injury in fact sufficient to establish standing. J.A. 203-04 (*IRAP*); J.A. 1180 & n.6 (*Hawaii*).

ganization's abstract social interests." *Id.* The Court explained that "[i]f . . . petitioners' steering practices have perceptibly impaired" the plaintiff organization's ability to pursue its mission, "there can be no question that the organization has suffered injury in fact." *Id.*

Like the plaintiff organization in *Havens*, organizational respondents IRAP, HIAS, and MESA have a significant and personal stake in the outcome of the controversy.

IRAP's mission is to "develop and enforce a set of legal and human rights for refugees and displaced persons." *Mission and Values*, International Refugee Assistance Project, https://refugeerights.org/our-work/mission-values. IRAP "provides legal representation to vulnerable populations, particularly those from the Middle East, who are seeking safety and reunification with their family members in the United States." IRAP Opp. 9.

HIAS is the "oldest refugee assistance organization in the world." HIAS's mission is to "rescue[] people whose lives are in danger for being who they are." *Mission and Values*, HIAS, https://www.hias.org/mission-and-values.

MESA is a U.S.-based membership organization of students and scholars of Middle Eastern studies. MESA is a non-profit association whose mission is to promote scholarship and teaching, and to encourage public understanding of the Middle East through programs, publications, and services that enhance education, further intellectual exchange, recognize professional distinction, and defend academic freedom. *About MESA*, Middle East Studies Association, http://mesana.org/about/index.html.

The travel ban has impeded each organization's pursuit of its mission. IRAP and HIAS have had to divert significant resources in order to find alternative routes to safety for their clients. IRAP Opp. 19. And the travel ban prevents many members of MESA from attending the organization's annual conference—its flagship event and a "leading international forum" for scholarly exchange on the Middle East. J.A. 94. These "concrete and demonstrable injur[ies]" to the organizational respondents are more than sufficient to establish standing. *Havens*, 455 U.S. at 379.

In addition to the litigants currently before this Court, numerous other parties challenging the travel ban have standing to bring constitutional claims. *Amici*, for instance, have suffered direct and concrete harm. The organizations have all had to divert staff and financial resources from their regular activities in order to respond to the travel ban's immediate effects on their members and the community.[4] In the immediate aftermath of the travel ban, *amici* received a deluge of inquiries and requests for legal assistance or referrals, as members of the Iranian-American community and their families who had been traveling outside the United States when the travel ban suddenly took effect found themselves stranded.[5]

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[4] *See Pars Equality Center*, No. 17 Civ. 255, Dkt. 72 Ex. 1 (¶¶ 16-17, 19-21, 32), Ex. 2 (¶¶ 23, 44-48, 56), Ex. 3 (¶¶ 36, 38, 45, 51-52), Ex. 4 (¶¶ 23, 26).

[5] *Id.* Ex. 1 (¶¶ 17, 20-21, 30-31, 40), Ex. 2 (¶¶ 11, 22, 44, 47, 52), Ex. 4 (¶ 32); *see also* Hr'g Tr. 24-26, *Pars Equality Center*, No. 17 Civ. 255 (D.D.C. April 18, 2017) (testimony of Babak Yousufzadeh, President of IABA).

Amici were inundated with requests for assistance in the wake of the President's executive orders. Staff spent hours responding to constituent concerns and providing guidance on the travel ban's effects and application. IABA members provided emergency assistance at airports and gave legal support to those affected.[6] And notwithstanding the current injunctions, Iranian Americans continue to ask NIAC for help coping with the ongoing consequences of the travel ban, including refused visas, cancelled interviews, and the lack of guidance from the government.[7] Combatting the travel ban's persistent effects on their constituents has overwhelmed *amici*'s limited resources and forced them to put other organizational goals on hold.

And the animus that the travel ban reflects—and has normalized—has compelled *amici* to combat the psychological, emotional, and sometimes physical harms inflicted on the Iranian-American community. PAAIA has increased public-education efforts to combat the rise in hate crimes against Iranian Americans, and has increased fundraising efforts to compensate victims of such crimes.[8] Pars fields calls from individuals who are worried, fearful, confused, and have been made to feel like second-class citizens.[9] As the Executive Director of PAIAA testified,

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[6] *Id.* Ex. 2 (¶¶ 22, 28, 30, 32, 44-45).

[7] *Id.* Ex. 3 (¶¶ 33, 35, 47-50), Ex. 2 (¶¶ 16-17, 19-21).

[8] Hr'g Tr., *supra* n.4, at 71-74 (testimony of Leila Austin, Executive Director of PAAIA) (detailing specific hate crimes perpetuated against Iranian Americans and the efforts to raise funds "for vandalism repair fees, legal fees, and rewards for apprehending perpetrators").

[9] *Pars Equality Center*, No. 17 Civ. 255, Dkt. 72 Ex 2 (¶¶ 20, 27, 30, 40-43).

many Iranian Americans "escaped arbitrary authoritarian decrees in their homeland, and so when this happens here, the effect is amplified."[10]

It is undeniable that countless individuals and organizations—in these cases and others—have suffered harm as a result of the travel ban. Standing is no impediment to judicial review of respondents' constitutional claims.

B. The government contends more broadly that the President's decisions to restrict entry are "largely immune from judicial review." U.S. Br. 23-25. This argument fails to recognize that (1) Congress, not the President, has plenary power to make policy decisions as to immigration, and (2) Congress has mandated that, in the issuance of immigrant visas and the administration of refugee programs, the Executive must execute its policy in a nondiscriminatory fashion with regard to nationality (for visas and refugee programs) or religion (for refugee programs). *See* 8 U.S.C. §§ 1152(a)(1)(A), 1522(a)(5). The argument also fails to recognize that numerous litigants challenging the statute have standing under *Kleindienst v. Mandel*, because government action predicated on discriminatory animus against persons on the basis of nationality or religion can never be "facially legitimate and bona fide." 408 U.S. 753, 762 (1972). "If the constitutional conception of 'equal protection of the laws' means anything, it must at the very least mean that a bare desire to harm a politically unpopular group cannot constitute a legitimate governmental interest." *Romer v. Evans*, 517 U.S. 620, 634 (1996).

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[10] Hr'g Tr., *supra* n.4, at 67.

II. The Travel Ban Imperils Individuals and Separates Families

The travel ban has upended the lives of thousands of individuals and families in the United States and around the world. The *amici* filing this brief have collectively received thousands of requests—from couples seeking to marry, grandparents seeking to meet their grandchildren, and families seeking reunification; from young students seeking educational opportunity and young scientists and doctors seeking to accept professional opportunities that will advance scientific and medical innovation; from individuals who have been victims of hate crimes in the United States based on their religion or national origin; and from individuals who are fleeing persecution in Iran based on their political activities, their religion, or their sexual orientation.

The following stories demonstrate how the travel ban has adversely affected—and continues to affect—specific people and families. Although the individuals here are all Iranian, their stories reflect a diversity of experiences, hopes, and desires. Some seek to be reunited with family. Others want to marry and form new families of their own. Many flee violent persecution because of who they are, whom they love, or what they believe. All of them want to be treated equally and afforded basic human dignity.[11]

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[11] Each of these individuals is a plaintiff in *PARS Equality Center v. Trump*, No. 17 Civ. 255 (D.D.C.), or is prepared to be joined as a plaintiff should the district court's stay of that litigation be lifted. Many of them requested permission—which the district court granted—to proceed pseudonymously because they reasonably fear government retaliation against them and their families. Declarations supporting these accounts may be found on the district court docket.

Reza Zoghi. Reza Zoghi, an Iranian citizen, fled with his family to Turkey in December 2013 to escape violent political persecution in Iran. He and his wife and three-year-old daughter have successfully completed virtually all the vetting processes for resettlement through USRAP. They have already completed the vetting process, including medical screening and cultural orientation. All they need are their travel documents. But the travel ban put everything on hold. They remain in indefinite limbo in Turkey, where Mr. Zoghi cannot apply for employment and his daughter is not eligible, when of age, to enroll in school.

Mr. Zoghi's history of persecution in Iran dates back to 2006, when he was tortured for expressing dissatisfaction with new editorial management at the newspaper where he worked. In retribution for Mr. Zoghi's complaints, a former Iranian intelligence officer falsely accused him of theft and had him arrested. When Mr. Zoghi refused to confess to the false accusations, the officer had him tied to a bed and proceeded to beat him, strip him, and rape him. Eight days later, Mr. Zoghi was driven blindfolded to the outskirts of Tehran and released. Traumatized by this event, he quit his job at the newspaper, tried to avoid attracting any attention from the authorities, and twice attempted suicide.

In 2008, Mr. Zoghi started compulsory military service because, without proof of military service, he could not attend university, obtain a driver's license, or own property or a business. Disturbed by the 2009 presidential election in Iran, he began to participate in street protests when on leave. In July 2009, he and approximately 120 other protestors were arrested and sent to the Kahrizak detention center. There, he and the others were incarcerated in a

small, dark, unhygienic, unventilated cell with one doorless toilet and one faucet with unsanitary well water. They were denied medical treatment, provided two paltry meals per day, and frequently beaten with PVC pipes and forced to "exercise" outside, barefoot on burning hot asphalt by duck walking, squat-jumping, or crawling. He witnessed the deaths of three injured protestors and was forced to watch three others hung up from their feet and violently beaten.

After almost a week at Kahrizak, Mr. Zoghi and the other detainees were transferred to another detention center, where he was interrogated and pressured to declare that he had been conducting propaganda against the state of Iran and colluding against the state's national security interests. Two weeks later, he was released on bail.

Following his release, Mr. Zoghi and the other Kahrizak detainees filed a lawsuit against their torturers. Shortly thereafter, law-enforcement officers began contacting him and harassing his parents to pressure him to withdraw the suit. Initially, Mr. Zoghi refused, but after he and his family received further threats from law-enforcement officers, he agreed to drop the lawsuit.

In March 2013, Mr. Zoghi was arrested again, this time while visiting the graves of his fellow Kahrizak detainees. He was released only after agreeing to sign a pledge that he would refrain from speaking about Kahrizak or associating with the other victims or their families. In July 2013, Mr. Zoghi posted on his Facebook page criticism of the Kahrizak situation and the authorities' false reporting of its conditions. Shortly thereafter, he began to receive threats of retaliation. He discovered that the

security police had gone to his workplace, taken his belongings, including his laptop, and told his secretary that he must surrender to the police. Perceiving no other safe option, Mr. Zoghi fled to Turkey. Later, his wife joined him there, where she gave birth to their daughter. The family cannot return to Iran, where Mr. Zoghi would risk again being arrested, detained, tortured, and possibly even killed.

Mr. Zoghi and his family were granted refugee status by the Office of the United Nations High Commissioner for Refugees (UNHCR) in December 2015, and referred for resettlement in the United States through USRAP. Mr. Zoghi and his wife fear that the reinstated travel ban will bar their entry into the United States and extinguish their chance of a new life here. They do not have any immediate family in the United States, and have no offer to study or work in the United States. Although Mr. Zoghi and his family have been connected with Lutheran Immigration and Refugee Service in Minneapolis, this Court's stay of the judgments below prevents the family from resettling in the United States. They remain in Turkey, where they live in a state of perpetual anxiety and uncertainty. According to Mr. Zoghi: "At times it feels worse than the torture I had to endure in Iran."

Ali Asaei. Ali Asaei, an Iranian citizen, came to the United States on a F-1 student visa in 2015. He was awarded his master's degree in electrical engineering from SUNY New Paltz in 2016. Mr. Asaei now works at the Nathan Kline Research Institute, where he conducts MRI processing in order to understand brain structure and the structure of diseases such as Alzheimer's and Parkinson's. The goal of this work is to be able to predict the occurrence of these diseases. He also writes image-processing software

that supports clinical and research applications. His visa allows him to work in the United States until 2018.

Mr. Asaei's family lives in Iran. He has not seen his father or brother since 2013 and last saw his mother and sister in 2014, when they obtained tourist visas to visit him in the United States. Since then, his parents and sister have been working to receive a nonimmigrant visa in order to see their son and brother. The family applied for a visa to again visit Mr. Asaei a few years ago, and finally received notice that their visa interview appointment was scheduled for February 15, 2017, at the U.S. Embassy in Dubai. Four days after President Trump signed the January 27 Executive Order, the U.S. Embassy in Dubai sent an email to Mr. Asaei's family cancelling their visa appointment. The embassy then reversed course, likely in light of the overlapping injunctions of the travel ban, and rescheduled the family's visa interviews for February 16, 2017. Their visas were denied without explanation, and the consular officer told them that he could not give them a reason for the denial.

Mr. Asaei has quit his job and plans to leave the United States permanently soon. He does not want to live in a country where his parents cannot visit him and where, if the travel ban is reinstated, he cannot renew his work authorization.

Omid Moghimi. Omid Moghimi is a dual citizen of Iran and the United States. He earned his medical degree from Tufts University in Boston and is now a resident in internal medicine at Dartmouth-Hitchcock Medical Center. Dr. Moghimi married Dorsa Razi in July 2015 in Iran. Shortly thereafter, he petitioned for family visas so that his wife and

mother-in-law could join him in the United States. After over a year of processing, the family's visa-interview appointment was finally scheduled for February 2, 2017, at the U.S. Embassy in Abu Dhabi, U.A.E. But mere days before their appointment, President Trump signed the January 27 Executive Order, and the couple's visa interview was immediately canceled. Several weeks of uncertainty followed as Dr. Moghimi tried to get any information he could from the State Department. After the travel ban was enjoined, however, Ms. Razi was able to reschedule her interview with the help of Senators Jeanne Shaheen and Maggie Hassan and Representative Annie Kuster. The couple was reunited on February 22, 2017, but Ms. Razi's mother is still in Iran.

Dr. Moghimi and Ms. Razi's story is exceptional, however. Many people without their resources and connections have faced extreme hardship as they have waited for the government to reschedule visa interviews that were canceled when the first travel ban took effect. These individuals have been without recourse for months, despite constant and overlapping injunctions from multiple U.S. courts. And the government has refused to provide them with any concrete information about their cases.

Pedram. Pedram, who has chosen to keep his family name confidential, is a dual citizen of the United Kingdom and Iran who wishes to visit his ailing father in the United States. Pedram lives in Canada and has not lived in Iran since 1991. His parents, brother and sister, and his siblings' spouses and children all live in San Diego, California. Pedram's siblings are both naturalized American citizens, and his parents are lawful permanent residents in the process of obtaining their citizenship. Prior to

2016, Pedram was able to visit the United States twice: once in 2003 or 2004 on his Iranian passport, and once in 2015 on his British passport. Pedram applied for a visa in the fall of 2016 and provided the U.S. Consulate with supplemental information in April 2017. In May 2017, Pedram's father suffered a stroke that left him paralyzed. In addition, Pedram's brother had a son born in the United States, whom Pedram has not yet had the chance to meet.

Pedram's visa application has been placed in "administrative processing" and Pedram has received no further guidance from the State Department regarding his visa. Pedram has taken time off of work to contact both the U.S. Consulate and the U.K. Foreign Office to request updates and guidance. Meanwhile, he has not been able to visit his ailing father, who is suffering significant pain. Should the full terms of the travel ban be implemented, it is likely that Pedram's visa application will be denied, potentially preventing him from ever seeing his father again, and will make it very difficult, if not impossible, for him to meet his nephew.

Shiva Hissong. Shiva Hissong is an Iranian citizen and a lawful permanent resident of the United States. She and her husband, who is an architect, have a young son, for whom Ms. Hissong is the primary caregiver.

Ms. Hissong's parents live in Tehran. Her father is ill with Parkinson's disease, and his health is failing. Her parents had wanted to come to the United States for the birth of their grandson and applied for a visa in October 2016. They were told by an interviewing officer at the U.S. Embassy in Yerevan, Armenia, that administrative processing would delay their visa application by three to six months. Be-

cause of the delays and her father's illness, after her son was born, Ms. Hissong tentatively made plans to take him to meet her parents in March 2017 in the U.A.E., where her parents would meet their grandson.

After President Trump signed the January 27 Executive Order, however, Ms. Hissong cancelled the trip to the U.A.E. because she was concerned that she would no longer be readmitted to the United States. She and her husband cancelled a planned trip to the Netherlands for the same reason. She remains concerned that her parents will never meet their grandchild. The travel ban has resulted in confusion and uncertainty for Ms. Hissong and her family. Given the severity of her father's illness, she and her family has been greatly emotionally distressed about whether her son will ever meet his grandfather.

Jane Doe #1. In 2001, when Jane Doe #1 was 11 years old, her parents sold everything they owned and fled their native country, Iran. They built a new life for themselves and their two daughters in the United States. Over the past 16 years, Jane Doe #1's parents have founded small businesses here; their daughters have graduated from high school and college here; and the entire family has become U.S. citizens.

Jane Doe #1, now 28 years old, lives in San Diego, where she works for the city and is pursuing a master's degree in city planning from San Diego State University. In 2013, she met her fiancé, who is Iranian, while he was visiting the United States on a tourist visa. He has a master's degree in engineering from Sharif University of Technology in Tehran. Over the following two years, Jane Doe #1 traveled to

Iran to visit him several times, and in October 2015, they were engaged. The couple hired a lawyer to guide them through the visa process so that they could be married in the United States, and in February 2016, Jane Doe #1's fiancé submitted his K-1 visa petition. In October 2016, the couple traveled to Abu Dhabi for the visa interview, whereafter the visa was verbally approved by the consular officer but not yet issued. They were advised that "additional administrative processing" preceding issuance of the visa could take up to six months.

Three months after the couple's visa interview—and before the visa issued—President Trump signed the January 27 Executive Order. It has now been nearly a year since the interview and 19 months since the couple first submitted the visa petition. Still, Jane Doe #1's fiancé has not received his visa. In the meantime, the government has ignored the couple's repeated inquiries about the visa's status. The government has refused to state whether it is continuing to process Jane Doe #1's fiancé's visa or whether it has complied with the injunctions entered in *IRAP* and *Hawaii*—and upheld, in relevant part, by this Court. As a result, the couple has been separated from each other, and they have been forced to postpone their marriage indefinitely.

Jane Does #8 and #9. Iran is one of the few countries where homosexuality is punishable by death. In 2014, Jane Doe #8, who is a lesbian woman, and Jane Doe #9, who is a lesbian transgender woman, fled Iran to Turkey to escape persecution.

Before fleeing Iran, Jane Doe #8 was a leader of an underground LGBT-rights organization and editor of an underground LGBT magazine in Tehran. When she was 20 years old, she was raped by an ac-

quaintance after she told him that she was lesbian. The man then threatened to expose her sexual orientation to her family and to the government if she did not marry him. Even after she refused to marry him, he continued to sexually and physically abuse her, and he also threatened to hurt her sister. Unable to turn to her family or the government for help, Jane Doe #8 was forced to flee Iran to escape her abuser. She went to Turkey, where she contacted UNHCR, seeking resettlement as a refugee. She also wrote to her friend, Jane Doe #9, who was in Iran, urging her to join her in Turkey. Jane Doe #9 had suffered government persecution and physical abuse because of her gender identity. She arrived in Turkey in late 2014, and also sought refugee status. The two women began dating shortly after Jane Doe #9 arrived, and they are now engaged to be married.

After months-long interview and vetting processes, UNHCR determined that both women were eligible for resettlement as refugees. UNHCR initially referred Jane Doe #8 for resettlement in Canada, but Canada would not accept the couple's applications together. In December 2016, UNHCR referred both women to USRAP. They were interviewed by the International Catholic Migration Commission, a nonprofit organization that works to resettle refugees in the United States and around the world. Then, while they were waiting for their second interview to be scheduled, the President signed January 27 Executive Order. Months of uncertainty followed while their own case and others were pressed in courts across the country. But on June 26, 2017, this Court permitted the travel ban to go into effect as to refugee applicants.

Since then, Jane Does #8 and #9 have remained in limbo. Although they are safer in Turkey than in

Iran, the women continue to suffer persecution and abuse because of who they are and whom they love. They are unable to be married in Turkey, nor are they afforded basic human and civil rights.

John Doe #3. John Doe #3 is a respected scientist and researcher in the field of pharmacology. He holds a Ph.D. and a doctorate in pharmacology from a leading research university in Iran, and graduated at the top of his class in both programs. He worked as a resident and physician at another leading university in Iran, and is the lead author or co-author of over 40 scientific articles that have been published in leading journals in his field. Because of his research, John Doe #3 was awarded a competitive three-year fellowship at a renowned research and teaching hospital in Boston to study the effects of diabetes on the heart. He was to conduct this research at a prestigious laboratory run by a well-known professor of medicine and biochemistry at an Ivy League university.

The fellowship was to begin in December 2016. John Doe #3 immediately applied for a J-1 visa for himself and a J-2 visa for his wife. They were both interviewed in October 2016 at the U.S. Embassy in Dubai. Shortly thereafter, John Doe #3 learned that his visa had been approved. John Doe #3 and his wife waited for his wife's visa to be processed, but weeks passed without any news from the government. Finally, because he could no longer delay the start of his fellowship, John Doe #3 made an appointment with the U.S. Embassy to retrieve his own visa. But just days before John Doe #3's appointment, President Trump signed the January 27 Executive Order. Five days later, officials at the U.S. Embassy refused to issue John Doe #3's visa, citing the travel ban, and instructed him to go back to Tehran.

At present, John Doe #3 and his wife still cannot travel to the United States. Although John Doe #3's visa was issued while the travel ban was enjoined, his wife's application remains in administrative processing. And the government has refused to provide any updated information about its status. As a result, John Doe #3 has still not begun his fellowship. If he and his wife are unable to travel to the United States, he will have to forfeit his fellowship.

John Doe #5 and Baby Doe #1. John Doe #5 first came to the United States in 2009 on an F-1 student visa. After obtaining a master's degree and a Ph.D. in mechanical engineering from the University of Buffalo in New York in 2015, he began a post-doctoral fellowship with the State University of New York Research Foundation. In 2013, John Doe #5 returned to Iran to marry his wife, who is also an Iranian citizen. After she obtained her F-2 visa, he and his wife came back to New York to live. Last August, John Doe #5 and his wife welcomed a baby boy into their family, Baby Doe #1. So that his parents and in-laws could meet their first grandchild, John Doe #5 and his wife traveled to Iran in January 2017 with their infant son to spend some time with their parents and extended family.

While in Iran, John Doe #5's wife had to apply for a new F-2 visa, and her visa application was approved by the U.S. Embassy in Dubai on January 17, 2017. But before her visa could be issued, President Trump signed the January 27 Executive Order. The U.S. Embassy refused to issue her visa, and she was unable to go back to New York to be with John Doe #5. Their infant son, who is a U.S. citizen, remained in Iran with John Doe #5's wife, because he was too young to travel by himself. Not until February 19, while the travel ban was enjoined, was John Doe #5

able to be reunited with his wife and infant son. The family's worries are not behind them, however. The visas on which John Doe #5 and his wife entered the United States are expired and, if they wish to travel to Iran to visit family in the future, they will have to apply for new visas to reenter the United States. If the travel ban is again enforced, they risk having their visas denied.

John Does #7 and #8. Like Jane Does #8 and #9, John Does #7 and #8 are a homosexual couple that fled Iran to escape persecution, but have been afforded no relief from their suffering.

While in Iran, John Does #7 and #8 lived together for eight years enduring continued harassment due to religious intolerance for same-sex couples. John Does #7 and #8 were forced to move from their home at least three times due to complaints by the landlord or neighbors, who repeatedly reported them to the police. They lived in constant fear of being arrested and beaten in Iranian prisons, or seized by government officials who would tolerate—or even encourage—violence against same-sex couples. John Does #7 and #8 could not even answer their front door.

John Does #7 and #8 felt unwanted in Iran. More than that, they feared for their safety and together fled to Turkey. There, John Does #7 and #8 continue to suffer. They live in a small town where their relationship is not tolerated, and they are not allowed to work. To make matters worse, John Doe #8 is very ill. He was diagnosed with colitis and experiences physical pain, which is only exacerbated by their substandard living conditions and lack of access to medical care.

After arriving in Turkey, John Does #7 and #8 applied for resettlement to the United States to escape further persecution and to secure medical care for John Doe #8. After a lengthy interview and vetting process, UNHCR determined that both men were eligible for resettlement as refugees and referred them to USRAP. While John Does #7 and #8 were awaiting acceptance to USRAP, President Trump signed the January 27 Executive Order. Months of uncertainty followed, while their own case and others were litigated in courts across the country. But on June 26, 2017, this Court permitted the travel ban to go into effect as to refugee applicants.

Since then, John Does #7 and #8 have lived in a continued state of uncertainty and distress. Because of the intolerance in both Iran and Turkey, for the love shared by a couple of the same of sex, John Does #7 and #8 are deprived of basic human and civil rights.

CONCLUSION

Over the past nine months, thousands of people in the United States and around the world have endured extraordinary pain, distress, and confusion—for no reason other than President Trump's desire to ban Muslims from the United States. This Court should neither prolong nor renew the hardships that the travel ban and the invidious discrimination it embodies have inflicted. The decisions of the Courts of Appeals for the Fourth and Ninth Circuits should be affirmed.

Respectfully Submitted,

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